



## CONNECTICUT BANKERS ASSOCIATION

February 9, 2021

To: Members of the Banking Committee

From: Connecticut Bankers Association

Contacts: Tom Mongellow, Art Corey (860-677-5060); Fritz Conway (860-229-0301)

RE: H.B. 6372, An Act Exempting from Execution Certain Funds in a Judgment Debtor's Account

Position: Opposed

This bill would significantly expand the list of exempt funds a financial institution must automatically protect from an execution. This will unreasonably increase execution liability risks and compliance costs for financial institutions. The CBA has worked with the bill's proponent over the years and has agreed to many changes to the execution statutes which are now memorialized in state statute. However, as we have asserted in the past, and continue to communicate, HB 6372 makes changes that are unworkable from an execution process perspective, and unfair to creditors that have legitimate court ordered judgement executions.

Connecticut law exempts certain funds deposited to a bank account from a judgment creditor's execution. This includes, among others, federal benefits, unemployment compensation, wages, alimony, and certain retirement funds.

When these types of funds are in the judgment debtor's account, the judgment debtor can protect them from execution by using the exemption claim process established by Connecticut's execution statute.

Connecticut's execution statute also requires a financial institution to automatically protect a certain amount of funds from a limited number of exempt sources (i.e. outside of the exemption claim process). A financial institution must automatically protect electronic direct deposits of federal benefits, child support payments, unemployment compensation, and wages. The financial institution must

immediately review the account when it receives an execution (a mandatory one-day turnaround) to determine whether any direct deposits of these types of funds were made to the judgment debtor's account during the previous 60 days.

If the deposits are "readily identifiable" as coming from these exempt sources, then the financial institution must leave a certain amount of those deposits – up to \$1,000 - in the judgment debtor's account. The judgment debtor is free to use these funds. The financial institution holds the remaining funds in the account and eventually pays them to the judgment creditor, unless the judgment debtor uses the exemption claim process to claim that the funds on hold are also exempt.

HB 6372 would expand the list of electronic direct deposits that a financial institution is required to automatically protect from an execution. A major concern is that the types of direct deposits that would be added to the list *are not* as "readily identifiable" as those currently on the list, such as federal benefit payments. Federal benefit payments are clearly identified by the federal government as benefit payments.

The types of direct deposits this bill would add to the list are typically not identified in a way that easily allows a financial institution to determine whether they are exempt funds. This increases the risk that a financial institution will fail to identify and protect exempt direct deposits. A financial institution could be liable to its depositor, the judgment debtor, for such a failure.

The execution statute expressly states that if a "financial institution pays exempt moneys from the account of the judgment debtor over to the serving officer contrary to the provisions of this section, such financial institution shall be liable in an action therefor to the judgment debtor."

In addition to the increased risk of liability, HB 6372 will also increase compliance costs for financial institutions. By expanding the list of exempt direct deposits to include deposits that are not clearly identified as coming from an exempt source, financial institutions will have to devote increased staff time to determine whether direct deposits are from an exempt source.

The increase in liability risk and in compliance costs that HB 6372 will create for financial institutions is unreasonable as is the diminishing of creditor rights for legitimately obtained court judgement executions.

The Connecticut Bankers Association appreciates the opportunity to provide its comments and concerns regarding HB 6372, and strongly urges your opposition to the bill.